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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,719	03/29/2004	Michael A. Rothman	42P18654	1421
7590 10/15/2007				
Anthony H. Azure BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP Seventh Floor 12400 Wilshire Boulevard Los Angeles, CA 90025				
		EXAMINER HOANG, DANIEL L		
		ART UNIT 2136		
		MAIL DATE 10/15/2007		
		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/811,719	Applicant(s) ROTHMAN ET AL.	
	Examiner Daniel L. Hoang	Art Unit 2136	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/29/04</u>   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **CLAIMS PRESENTED**

**Claims 1-30 are presented.**

### **CLAIM REJECTIONS**

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. The term "substantial" in claims 19, 26, and 30 is a relative term which renders the claim indefinite. The term "substantial" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-18, 20-25, and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lettvin, US Patent No. 5826012, and further in view of Ho et al., US Patent No. 7188369.**

**As per claim 1, 12, 20:**

**Lettvin teaches:**

A method, comprising:

initializing a virus scanner during a pre-boot phase of a computer system;

*[see col. 4, lines 62-67]*

scrubbing data read from an input/output (I/O) device of the computer system by the virus scanner [using a virus signature database] before the data is loaded; and

*[see col. 8, lines 24-32]*

enacting a platform policy if a virus is detected in the data.

*[see col. 8, lines 33-51]*

*Lettvin is not explicit in teaching that the virus scanner uses a virus signature database. Ho teaches a virus signature database (see figure 2, element 201). It would have been obvious to one of ordinary skill in the art to modify the invention taught by Lettvin to include a virus signature database. One would be motivated to do this in order to allow to system to use a plurality of virus signatures that can be continuously updated and/or replaced (col. 1, lines 29-40).*

**As per claim 2, Lettvin teaches:**

The method of claim 1, further comprising scrubbing contents of a memory device of the computer system during the pre-boot phase by the virus scanner.

*[see col. 8, lines 24-32]*

**As per claim 3, 13, Ho teaches:**

The method of claim 1, further comprising updating the virus signature database with updated virus signatures.

*[see col. 1, lines 50-64]*

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*One would be motivated to combine what is taught above by Ho with the Lettvin reference discussed above in order to detect newly occurring viruses which may not be present in outdated virus signatures.*

**As per claim 4, Ho teaches:**

The method of claim 3 wherein the virus signature database is updated during the pre-boot phase.

*[see col. 1, lines 50-64]*

*One would be motivated to combine what is taught above by Ho with the Lettvin reference discussed above in order to detect newly occurring viruses ASAP.*

**As per claim 5, 14, Lettvin teaches:**

The method of claim 1 wherein the virus signature database is not exposed to an operating system executing on the computer system.

*[see col. 3, lines 53-67]*

**As per claim 6, 22, Lettvin teaches:**

The method of claim 5 wherein the virus signature database is stored in a firmware-reserved area.

*[see col. 3, lines 53-67]*

**As per claim 7, 17, Ho teaches:**

The method of claim 1 wherein the virus scanner is executing in a virtual machine monitor (VMM) executing on the computer system, the VMM supporting at least one virtual machine (VM) executing on the computer system.

*[see col. 5, lines 25-67]*

**As per claim 8, 18, Ho teaches:**

The method of claim 7 wherein scrubbing data read from the I/O device includes: receiving a request from a requester to read data from the I/O device, the requester in a VM of the at least one VM; loading at least a portion of the requested data into a buffer; scrubbing the at least a portion of the requested data with the virus scanner; returning an error signal to the requester if the virus scanner detects a virus in the at least a portion of the requested data; and forwarding the requested data to the requester if the virus scanner does not detect a virus in the at least a portion of the requested data.

*[see figures 4 and 5]*

**As per claim 9, 15, 24, 28, Ho teaches:**

The method of claim 1 wherein the virus scanner is operable during the pre-boot phase, an operating system (OS) runtime phase, and an after-life phase of the computer system independent of an operating system of the computer system.

*[see col. 4, lines 63-37 and col. 4, lines 1-2]*

*One would be motivated to combine the above teachings of Ho with the Lettvin reference discussed above in order to detect viruses during all phases of OS usage.*

**As per claim 10, 16, 25, 29, Lettvin teaches:**

The method of claim 1 wherein the virus scanner scrubs the data without having knowledge of a file system of the data.

*[see col. 4, lines 62-67]*

**As per claim 11, Lettvin teaches:**

The method of claim 1, further comprising enacting the platform policy if the virus scanner detects non-normal behavior within the computer system.

*[see col. 8, lines 24-32]*

**As per claim 21, Lettvin teaches:**

The computer system of claim 20, further comprising a network interface operatively coupled to the processor, the virus scanner to scrub data read from the network interface using the virus signature database before the data is loaded in the memory device.

*[see col. 3, lines 29-52]*

**As per claim 23, Ho teaches:**

The system of claim 20 wherein execution of the firmware instructions further perform operations comprising updating the virus signature database with updated virus signatures downloaded from an external virus signature repository communicatively coupled to the computer system.

*[see col. 5, lines 1-24]*

*Downloading the virus signatures from an external repository provides added security and less chance that the data can be tampered with.*

**As per claim 27:**

A computer system, comprising:

a virtual machine monitor (VMM) to support at least one virtual machine (VM);

*[see Ho reference, col. 5, lines 25-67]*

an input/output (I/O) device, the VMM to emulate an I/O controller for the I/O device;

*[see Ho reference, col. 1, lines 50-64]*

a virus scanner within the VMM to scrub data read from the I/O device before the data is loaded; and

*[see Lettvin reference, col. 8, lines 24-32]*

a virus signature database to facilitate identification of a virus by the virus scanner.

*[see Ho reference, figure 2, element 201]*

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**Claims 19, 26, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lettvin and Ho as applied to claim 1 above, and further in view of Huntington et al., US Patent No. 6907524.**

**As per claim 19, 26, 30:**

The Lettvin and Ho references have been discussed above. Lettvin and Ho are not explicit in teaching:

“The article of manufacture of claim 12 wherein the plurality of instructions to operate substantially in compliance an Extensible Firmware Interface (EFI) specification.”

Huntington teaches a firmware substantially in compliance with the Extensible Firmware Interface (EFI) specification (col. 1, lines 51-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods disclosed by Lettvin and Ho to include what is taught by Huntington. One would be motivated to do so in order to provide protection from viruses on computer systems that use an Extensible Firmware Interface (col. 1, lines 6-10).

## **CONCLUSION**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

## **POINTS OF CONTACT**

\*. Any response to this Office Action should be **faxed to (571) 273-8300 or mailed to:**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Hand-delivered responses** should be brought to

Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314



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\*. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Hoang whose telephone number is 571-270-1019. The examiner can normally be reached on Monday - Thursday, 8:00 a.m. - 5:00 p.m., EST.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Moazzami can be reached on 571-272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

*Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).*



Daniel L. Hoang  
9/25/07

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10/12/07